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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,837	10/11/2001	Kimitaka Murashita	1075.1175	7761

21171 7590 09/01/2006

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EXAMINER	
PASIEWICZ, DANIEL M	
ART UNIT	**PAPER NUMBER**
2622	

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/973,837	MURASHITA ET AL.	
	Examiner	Art Unit	
	Daniel M. Pasiewicz	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,6,14,18,22,26,30,34,38,42,46,50,54,58,64 and 70-72* is/are pending in the application.

4a) Of the above claim(s) *6,30,34,38,42,46,50,54,58 and 64* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,14,18,22,26 and 70-72* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/12/2006 have been fully considered but they are not persuasive.

2. In view of Applicant's amendments there are no further objections to the title or claims 1 and 26.

3. Applicant argues that the image manipulating means of **claim 1** are not taught or suggested by the image processing portion 13 disclosed in **Okada** as "the image processing portion 13 of Okada is provided as part of the digital camera for obtaining picture images (see paragraph 46), while the image manipulating means as recited in claim 1 manipulate the image data, which has been obtained by the image obtaining apparatus ***from the image obtaining apparatus (e.g., the digital camera)***" (emphasis added).

4. The Examiner respectfully disagrees with Applicant's argument as **claim 1**, as originally presented or currently amended, does not state that the image manipulating means manipulates the image data "***from the image obtaining apparatus (e.g. the digital camera)***". In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The limitations of **claim 1** merely state that the image manipulating means "manipulates

said image data", said image data "has been obtained by said image obtaining apparatus" and said image data is manipulated "by a predetermined manipulation process yielding resulting image data". There is no language in **claim 1** that precludes that the manipulating means is part of the image obtaining apparatus. Thus, **Okada** discloses the claimed image manipulating means through image processing portion 13 which processes the image data from the CCD 12 that obtains image data in the image obtaining apparatus 10. Thus, the image processing portion 13 of **Okada** meets all the limitations of **claim 1** for the image manipulating means.

5. The Applicant further argues that "the image station 50 of Okada is indicated as disclosing both the image data dispensing means and the image server that is a part of the image data dispensing means" and that "the structures illustrated in FIGS. 5 and 6 of Okada do not anticipate the system of claim 1 whose non-limiting embodiments are illustrated for example in FIGS. 1, 3 and 8 of the present application."

6. The Examiner respectfully disagrees with Applicant's argument. The Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, as stated in paragraph 51 second to last sentence of **Okada**, the image station 50 comprises a server. The Examiner notes that Fig. 5 and 6 were not directly referenced in disclosing the server as a part of the image data dispensing means; however, as seen in paragraph 11 the Examiner points to paragraph 51 second to last sentence which discloses the image server which stores the resulting image data from the digital camera.

7. **Claims 14, 18, 22 and 26**, which depend from independent claim 1, are not patentable for at least the reasons discussed above with respect to **claim 1**.

8. With respect to new **claims 70-72** Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Claim Objections

9. Claim 70 is objected to because of the following informalities: reference to an item not mentioned prior.

- Claim 70 line 2 states, "the image data" when there is no prior mention of image data.

10. Appropriate correction is required.

Claim Rejections - 35 USC § 102

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 1, 18, 22 and 70-72 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2001/0040625 A1 to Okada et al.

13. With respect to **claim 1 Okada** discloses, in Fig. 4-6, an image data dispensing system comprising: an image obtaining apparatus (10), adapted to be lent to a customer

(200) (paragraph 51; where the digital camera 10 is adapted to be lent to a customer 200 by the customer 200 purchasing the camera 10 then returning it to the place of purchase once the customer 200 has used the camera and is ready to obtain the images), for obtaining image data by operation of the customer (200) (paragraph 46-49; where the user captures images of objects which are then stored in memory 18 of the camera 10 after processing); image manipulating means (13) for manipulating said image data, which has been obtained by said image obtaining apparatus (10), by a predetermined manipulation process yielding resulting image data (paragraph 46; where the photographed image data is manipulated by being processed by image processing portion 13 of camera 10); and image data dispensing means (50) for dispensing the resulting image data (paragraph 53, 59 and 70; where the image data that was stored on the image station 50 is dispensed to the user 200 personal computer via the Internet by being available for download or viewing), to the customer for a consideration (paragraph 51; where the above dispensing is provided for a consideration comprising money as the digital camera must first be purchased for use in order to be able to have images stored in the server 50 for download or viewing) said image data dispensing means (50) includes: an image server for storing the resulting image data (paragraph 51 second to last sentence); and a communication network (100) communicably interconnecting said image server and a customer terminal (60) (paragraph 59, 70, 72, 74-79 and 113; where the customer terminal is the user's personal computer 60; also the personal computer 60 maybe be a number of other items or maybe located at the store where the digital camera 10 is returned), and the resulting image data stored in

said image server (50) being dispensed to said customer terminal (60) via said communication network (100) (paragraph 70).

14. With respect to **claim 18 Okada** discloses, in Fig. 5, 6 and 8A-B, an image data dispensing system according to claim 1, wherein said image data dispensing means (50) further includes access managing means for managing access attempts of the customer from said customer terminal (60) to the resulting image data stored in said image server (50) (paragraph 70 and 80-82; where the managing means is the address and password the customer receives with purchase of the camera, the address and password are then used to allow the customer access to the resulting image data stored on the server so that the customer can edit or download the resulting images at the customer terminal 60), such that the accessing is permitted under condition that a predetermined amount of charge has been paid for the consideration (paragraph 51; where the accessing is permitted under condition that a predetermined charge has been paid when the customer receives the address and password after buying the digital camera 10).

15. With respect to **claim 22 Okada** discloses, in Fig. 8A-B and 9, an image data dispensing system according to claim 18, wherein said image data dispensing means (50) further includes reference image producing means for producing a reference image from the resulting image data stored in said image server (50), said reference image being offered to the customer without consideration (paragraph 81-84; where after the customer inputs the password a list of reference images are displayed to the customer which reference the resulting images stored in the image server 50, this is done without

consideration as the images are displayed directly after the password is enter and not because of the request of the customer).

16. With respect to **claim 70 Okada** discloses, in Fig. 4-6, an image recording apparatus (10) comprising: an image reader (14) reading image data from an image forming apparatus (12) (paragraph 46 and 49; where the control portion 14 controls the CCD 12 to read out image data); an image manipulator (13) processing the image data to generate processed image data (paragraph 46 and 49; where the processing portion 13 processes the image data from the CCD 12 to form processed image data); and an image writer (19) storing the processed image data in an image database (50) which can be accessed by a customer terminal via a network (paragraph 51, 53, 59, 62 and 70; where processed image data is stored in the image database 50 via the transmitting terminal 19 of digital camera 10; and where the image data that was stored on the image station 50 is dispensed to the user 200 personal computer via the internet in various ways comprising by being available for download or viewing).

17. With respect to **claim 71 Okada** discloses, in Fig. 4-6, a method to provide a customer with images obtained by an image forming apparatus, outside the image forming apparatus, the method comprising: reading out the images from the image forming apparatus (12) (paragraph 46 and 49; where the control portion 14 controls the CCD 12 to read out image data); applying a predetermined manipulation process to the read images to generate processed images (paragraph 46 and 49; where the processing portion 13 processes the image data from the CCD 12 to form processed image data); storing the processed images in an image database (50) connected to a

customer terminal via a network; and dispensing the processed images from the image database (50) to the customer terminal via the network (paragraph 51, 53, 59, 62 and 70; where processed image data is stored in the image database 50 via the transmitting terminal 19 of digital camera 10; and where the image data that was stored on the image station 50 is dispensed to the user 200 personal computer via the internet in various ways comprising by being available for download or viewing).

18. With respect to **claim 72 Okada** discloses, in Fig. 4-6, an image dispensing system capable to read images from an image data storing unit of an image forming apparatus, the image dispensing system comprising: an image reading unit (14) to read out images stored in the image forming apparatus (12) (paragraph 46 and 49; where the control portion 14 controls the CCD 12 to read out image data stored as accumulated charge in the pixels of the CCD 12); an image processing unit (13) to process the read images according to a predetermined processing procedure (paragraph 46 and 49; where the processing portion 13 processes the image data from the CCD 12 to form processed image data); and an image output unit (19) to transfer the processed image into an external image storing device (50), where the external image storing device (50) sends the images to a customer terminal via a network (paragraph 51, 53, 59, 62 and 70; where processed image data is stored in the image database 50 via the transmitting terminal 19 of digital camera 10; and where the image data that was stored on the image station 50 is dispensed to the user 200 personal computer via the internet in various ways comprising by being available for download or viewing).

Claim Rejections - 35 USC § 103

19. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

20. Claims 14 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2001/0040625 A1 to Okada et al in view of U.S. Patent 6,522,418 to Yokomizo et al.

21. With respect to **claim 14 Okada** discloses an image data dispensing system comprising: an image obtaining apparatus, adapted to be lent to a customer, for obtaining image data by operation of the customer; image manipulating means for manipulating said image data, which has been obtained by said image obtaining apparatus, by a predetermined manipulation process; image data dispensing means for dispensing a resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulation means, to the customer for a consideration; and said image data dispensing means includes: an image server for storing the resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulating means; and a communication network communicably interconnecting said image server and a customer terminal, and the resulting image data stored in said image server is dispensed to said customer terminal via said communication network.

22. **Okada** also discloses, in Fig. 5, 6 and 8A-B, wherein said image data dispensing means (50) further includes access managing means for managing access attempts of the customer from said customer terminal (60) to the resulting image data stored in said

image server (50) (paragraph 70 and 80-82; where the managing means is the address and password the customer receives with purchase of the camera, the address and password are then used to allow the customer access to the resulting image data stored on the server so that the customer can edit or download the resulting images at the customer terminal 60). **Okada** does not expressly disclose such that the accessing is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration.

23. In analogous art **Yokomizo** discloses, in Fig. 1, an image data dispensing system comprising: an image server which holds digital images taken by a customer, the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images, various processing and storage of the images may then be done for an amount of charge; and accessing of the digital images taken by the customer is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration. More specifically, **Yokomizo** discloses an image data dispensing system comprising: an image server (9) which holds digital images taken by a customer (column 3 lines 51-58, column 4 lines 55-59 and lines 64-67 and column 5 lines 16-19 and lines 24-27), the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images (column 5 lines 28-32; where the digital images are dispensed through the internet to a customer using the customer terminal comprising the customers PC), various processing and storage of the images may then be done for an amount of charge (column 7 lines 7-18 and column 10 lines 27-36); and accessing of the digital images

taken by the customer is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration (column 17 lines 4-9; where the digital images are stored for the initial consideration of the editing by the customer at the customer terminal for 30 days, the customer can then maintain the images for another limited period through payment of additional fees). Therefore, **Yokomizo** teaches such that the accessing is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration.

24. As stated in **Yokomizo** (column 2 lines 4-9) at the time the invention was made it would have been obvious to one of ordinary skill in the art to allow access for a limited period depending on the amount of charge as taught by Yokomizo in the image data dispensing system disclosed by Okada, for doing so would offer the customer the ability to edit and store the uploaded images on the server for an acceptable fee which allows the company that maintains the server the funding needed to maintain storage of the images for longer periods of time.

25. With respect to **claim 26 Okada** discloses an image data dispensing system comprising: an image obtaining apparatus, adapted to be lent to a customer, for obtaining image data by operation of the customer; image manipulating means for manipulating said image data, which has been obtained by said image obtaining apparatus, by a predetermined manipulation process; image data dispensing means for dispensing a resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulation means, to the customer for a consideration; and said image data dispensing means includes: an

image server for storing the resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulating means; and a communication network communicably interconnecting said image server and a customer terminal, and the resulting image data stored in said image server is dispensed to said customer terminal via said communication network.

26. **Okada** does not expressly disclose consideration collection managing means for collecting a consideration of a consideration to be paid for the resulting image data; and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period.

27. In analogous art **Yokomizo** discloses, in Fig. 1, an image data dispensing system comprising: an image server which holds digital images taken by a customer, the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images, various processing and storage of the images may then be done for an amount of charge; consideration collection managing means for collecting a consideration of a consideration to be paid for the resulting image data; and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period. More specifically, **Yokomizo** discloses an image data dispensing system comprising: an image server (9) which holds digital images taken by

a customer (column 3 lines 51-58, column 4 lines 55-59 and lines 64-67 and column 5 lines 16-19 and lines 24-27), the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images (column 5 lines 28-32; where the digital images are dispensed through the internet to a customer using the customer terminal comprising the customers PC), various processing and storage of the images may then be done for an amount of charge (column 7 lines 7-18 and column 10 lines 27-36); consideration collection managing means for collecting a consideration of a consideration to be paid for the resulting image data (column 17 lines 27-32); and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period (column 17 lines 4-9; where the images are deleted after the predetermined time of e.g. 30 days if an additional fee has not been paid). Therefore, **Yokomizo** teaches consideration collection managing means for collecting a consideration of a consideration to be paid for the resulting image data; and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period.

28. As stated in **Yokomizo** (column 2 lines 4-9) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include image deleting means for deleting images when a consideration collection managing means

determines a payment has not been made for additional storage time as taught by Yokomizo in the image data dispensing system disclosed by Okada, for doing so would offer the customer the ability to edit and store the uploaded images on the server for an acceptable fee which allows the company that maintains the server the funding needed to maintain storage of the images for longer periods of time while removing the images of customers that do not pay the fees so that store space can be maximized to paying customers.

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel M. Pasiewicz whose telephone number is (571)272-5516. The examiner can normally be reached on M-F 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on (571)272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DMP
August 21, 2006

NGOC-YEN VU
SUPERVISORY PATENT EXAMINER